

SENATE BILL 184

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CF HB 54

By: **Senators Kelley, Colburn, Conway, Exum, Lenett, Madaleno, Raskin,
Rosapepe, Stone, and Zirkin**

Introduced and read first time: January 20, 2010

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Real Property – Condominiums – Dispute Settlement Mechanism**

3 FOR the purpose of altering the application of a certain dispute settlement mechanism
4 under the Maryland Condominium Act; and generally relating to condominium
5 dispute settlement procedures.

6 BY repealing and reenacting, with amendments,
7 Article – Real Property
8 Section 11–113
9 Annotated Code of Maryland
10 (2003 Replacement Volume and 2009 Supplement)

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
12 MARYLAND, That the Laws of Maryland read as follows:

13 **Article – Real Property**

14 11–113.

15 (a) [Unless the declaration or bylaws state otherwise, the] **THE** dispute
16 settlement mechanism provided by this section is applicable to complaints or demands
17 formally arising on or after January 1, 1982.

18 (b) The council of unit owners or board of directors may not impose a fine,
19 suspend voting, or infringe upon any other rights of a unit owner or other occupant for
20 violations of rules until the following procedure is followed:

21 (1) Written demand to cease and desist from an alleged violation is
22 served upon the alleged violator specifying:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 1 (i) The alleged violation;
- 2 (ii) The action required to abate the violation; and
- 3 (iii) A time period, not less than 10 days, during which the
4 violation may be abated without further sanction, if the violation is a continuing one,
5 or a statement that any further violation of the same rule may result in the imposition
6 of sanction after notice and hearing if the violation is not continuing.

7 (2) Within 12 months of the demand, if the violation continues past
8 the period allowed in the demand for abatement without penalty or if the same rule is
9 violated subsequently, the board serves the alleged violator with written notice of a
10 hearing to be held by the board in session. The notice shall contain:

- 11 (i) The nature of the alleged violation;
- 12 (ii) The time and place of the hearing, which time may be not
13 less than 10 days from the giving of the notice;
- 14 (iii) An invitation to attend the hearing and produce any
15 statement, evidence, and witnesses on his or her behalf; and
- 16 (iv) The proposed sanction to be imposed.

17 (3) A hearing occurs at which the alleged violator has the right to
18 present evidence and present and cross-examine witnesses. The hearing shall be held
19 in executive session pursuant to this notice and shall afford the alleged violator a
20 reasonable opportunity to be heard. Prior to the effectiveness of any sanction
21 hereunder, proof of notice and the invitation to be heard shall be placed in the minutes
22 of the meeting. This proof shall be deemed adequate if a copy of the notice, together
23 with a statement of the date and manner of delivery, is entered by the officer or
24 director who delivered the notice. The notice requirement shall be deemed satisfied if
25 the alleged violator appears at the meeting. The minutes of the meeting shall contain
26 a written statement of the results of the hearing and the sanction, if any, imposed.

27 (4) A decision pursuant to these procedures shall be appealable to the
28 courts of Maryland.

29 (c) If any unit owner fails to comply with this title, the declaration, or
30 bylaws, or a decision rendered pursuant to this section, the unit owner may be sued for
31 damages caused by the failure or for injunctive relief, or both, by the council of unit
32 owners or by any other unit owner. The prevailing party in any such proceeding is
33 entitled to an award for counsel fees as determined by court.

1 (d) The failure of the council of unit owners to enforce a provision of this
2 title, the declaration, or bylaws on any occasion is not a waiver of the right to enforce
3 the provision on any other occasion.

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 June 1, 2010.